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TAGS: [PREL](#) [PTER](#) [KAWC](#) [YM](#)  
SUBJECT: RESPONSE TO STATUS OF TRANSFERS FROM GTMO

REF: STATE 47838

Classified By: Ambassador Thomas C. Krajeski for reasons 1.4 (b) and (d).

¶1. Summary. (S) This cable is post's response to reftel request for a Country Team assessment of the ROYG's ability and willingness to provide security and humane treatment for the 13 Yemeni GTMO detainees cleared for transfer. Regarding humane treatment, the ROYG provided adequate written assurances that the detainees will be treated in accordance with Yemeni law, but will not explicitly agree to third-party monitoring, especially by USG officials. Domestic political pressure and limited capacity render the ROYG unable to ensure that the detainees will no longer pose a continued threat to the international community. Increased training, equipment, and facilities upgrades, as suggested in reftel, may improve the ROYG's ability to investigate and prosecute these individuals, but will not provide a short-term solution to the shortcomings of the ROYG's security services. End Summary.

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Security  
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¶2. (S) The ROYG is likely to provide written assurances that it will take responsibility for the security of the returnees, but will view this pledge as an indication that the ROYG, and not the USG, has the authority to make all decisions related to the detainees once they have been returned to Yemen.

¶3. (S) The limited capacity of the Yemeni security apparatus hinders the ROYG's ability to ensure that these individuals will no longer pose a threat to the international community. Security officials have a limited ability to surveil and monitor. In addition, large regions of the country have limited to no government presence, which further erodes the ROYG's ability to maintain constant surveillance. The ROYG has the ability to deny passport privileges and stop an individual from transiting any official border crossing. Given Yemen's long and porous borders, however, an individual can easily leave the country without being detected.

¶4. (S) The ROYG's limited security capabilities are compounded by pervasive corruption, as evidenced by the escape of 23 al-Qa'ida supporters from prison in February. While the ROYG's investigation into that incident continues, it is likely that the bribing of prison officials played a significant role in facilitating the prisoners' escape. While cooperation with USG agencies has increased in the wake of the breakout, the ROYG is unlikely to provide the USG with information on the detainees' movements in a comprehensive or consistent manner.

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Investigation and Prosecution  
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¶5. (S) The ROYG has a limited but increasing ability to investigate and prosecute individuals if there is evidence that they are members of (or have aided) al-Qa'ida or one of its affiliates. Within the last several years, the ROYG has successfully tried a number of al-Qa'ida supporters, even though Yemeni law has no specific anti-terrorism provisions. Most suspected al-Qa'ida supporters have been tried and convicted under laws related to forming an armed gang (maximum sentence of 15 years) or obtaining fraudulent documentation (maximum sentence of seven years). Yemeni law allows suspects to be detained for 48 hours without charges, but this law is frequently ignored and individuals have been detained indefinitely on suspicion of terrorist activity.

¶6. (S) The ROYG's ability to complete independently a comprehensive investigation is limited, given a lack of resources and expertise related to forensics and surveillance. During the USS Cole trial, for example, the ROYG relied heavily on FBI-collected and analyzed data. Investigations of suspected terrorist crimes are also generally conducted by the Political Security Organization, which rarely shares all the information derived from investigations with the Attorney General's office.

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Humane Treatment and Access  
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¶7. (S) The ROYG will likely only agree to treat detainees in accordance with domestic law, which prohibits torture. The ROYG is unlikely to explicitly agree to USG or third-party access to transferred individuals. While it is unlikely that the ROYG will grant any kind of consistent access to USG officials, the ROYG has granted periodic access to third-party organizations like Amnesty International to visit security detainees who claim they were transferred from USG custody. ROYG officials responded to public inquiries about these detainees by stating that they were being held without trial at the behest of the USG.

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Comment: The Question of Political Will  
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¶8. (S) In addition to a clear lack of capacity, domestic politics will play a large role in terms of Yemen's willingness to provide assurances and devote their limited resources to managing the security threat, especially considering the resources already being devoted to tracking down the al-Qa'ida escapees. Because of the September presidential and local council elections, President Saleh will be hesitant to provide any written assurances that give him the appearance of being controlled by the United States.

¶9. (S) Given the ROYG's limited capacity to monitor detainees and independently investigate and prosecute terrorist-related crimes, the ROYG cannot guarantee that the transferred detainees will no longer pose a security threat. While post already works with the ROYG on a number of levels to increase its ability to combat terrorism, there are no short-term solutions to these shortcomings. Training, equipment, and facilities upgrades could significantly increase the ROYG's ability to conduct investigations and prosecute these individuals, but would not have a measurable impact on the failings of the ROYG's corrupt security services or the tremendous domestic political forces buffeting Saleh.

¶10. (S) If the detainees are released into ROYG custody, the Department should be prepared for the likelihood that the security services' deficiencies may allow these individuals to once again pose a security threat to the international community. The best chance we have of managing this threat is to coordinate the monitoring of these individuals at a working level, rather than continuing to demand written

assurances we do not foresee a prospect of obtaining at this point in time.  
Krajeski